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DATE:

3 October 2003

ADDRESSEE/

ERIN PENDER

FAX NO./ 703-308-6459

SENDER/

J. WAYNE ANDERSON

FAX NO./(613) 952-6082

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Jouishomme et al

Applicant(s): Jouishomme et al

Serial No: 09/980,080

Filing Date: 2 June 2002

Examiner: Art Unit:

Title: 3-Dimensional Models of Mammalian Tissues

Docket No: PG1-1

October 3, 2003

OFFICIAL

To: Assistant Commissioner of Patents
BOX PCT
P.O. Box 1450
Alexandria, Virginia
22313-1450
U.S.A.

ATTENTION Office of PCT Legal Administration

Re: Renewed petition under 37 CFR 1.47a

Sir:

This is following a telephone conversation of 2 October with your Erin Pender.

As explained to Ms. Pender, on 19 June 2003, the following materials were mailed via Fedex to the local firm of Patent Providers for hand carry to the USPTO. A true copy of the Fedex receipt is enclosed.

Patent Providers duly hand carried the materials to the USPTO and filed same on 20 June 2003. A true copy of the USPTO mailroom receipt stamped 20 June 2003 is also enclosed.

A true copy of the VISA statement showing the debiting of our account for the time extension fee of \$930.00US is also enclosed.

True copies of the materials listed on the USPTO mailroom receipt and specified as follows, are enclosed.

Petition for Extension of time dated 18 June 2003-10-03
Form PTO-2038 for Credit Card payment of \$930US
Re-newed Petition under 37 CFR 1.47(a), dated 18 June 2003
Combined Declaration & Power of Attorney
Copy of decision on Petition under 37 CFR 1.47(a)

Favorable reconsideration of the Petition is believed to be warranted, and the application returned to the appropriate Examination group for examination of the application on its merits.

Respectfully submitted

By:  J. Wayne Anderson

Patent Agent for Applicant
Regn No: 28,158
P.O. Box 1266 Station "B"
Ottawa, Ontario
Canada, K1P 5R3
Tel: 613-715-9448

FACSIMILE TRANSMISSION CERTIFICATE

I certify that this paper is being facsimile transmitted to the US Patent and Trademark Office on the date shown below.


J. Wayne Anderson


3 October 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

J. Wayne Anderson
PO Box 1266 Station B
Ottawa, ON K1P 5R3
Canada

In re Application of
JOUISHOMME, Herve, et al.
Application No.: 09/980,080
PCT No.: PCT/CA00/00650
Int. Filing Date: 02 June 2000
Priority Date: 03 June 1999
Attorney Docket No.: PGI-1
For: 3-DIMENSIONAL IN-VITRO MODELS
OF MAMMALIAN TISSUES

#8
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
RECEIVED
03 OCT 2003
Legal Staff
International Division

1006-1
DECISION ON
PETITION UNDER
37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 25 October 2002.

BACKGROUND

On 02 June 2000, applicants filed international application PCT/CA00/00650, which claimed a priority date of 03 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 December 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 December 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 December 2001.

On 30 November 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 January 2002, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 20 May 2002, applicants submitted the instant petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a combined declaration and power of attorney executed, a petition for a two month extension of time and the fee for a two month extension of time.

On 25 June 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing the petition without prejudice.

On 25 October 2002, applicants submitted "Renewed Petition Under 37 CFR 1.47(a)".

DISCUSSION

When a joint inventor cannot be located or refuses to sign the oath or declaration, a petition under 37 CFR 1.47(a) must accompany the oath or declaration. 37 CFR 1.47(a). A petition under 37 CFR

1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Item (1) was previously met.

Item (4) has now been met. The declaration complies with 37 CFR 1.497(a)-(b).

As to item (2), applicants claim to be unable to locate the nonsigning inventor, but according to the statement of facts, a 37 CFR 1.47(a) applicant, Ms. Phipps, knows the location of Inventor Herve Jouishomme, but is unwilling to disclose it. Applicants cannot claim that the inventor cannot be located *after a diligent effort* when one of the applicants knows the inventor's location, but has chosen not to disclose it. Applicants may still base a petition under 37 CFR 1.47(a) on the refusal of applicant to execute the declaration, but then applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers to the inventor. MPEP 409.03(d).

It is noted that parts of the statement of facts were hearsay. Namely, Mr. Anderson did not personally prepare the package for mailing nor did he conduct the internet search for the nonsigning inventor. The statements must be signed by someone with first hand knowledge of the facts recited therein, whenever possible. MPEP 409.03(d).

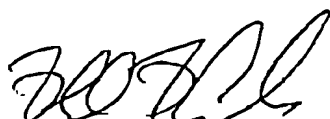
As to item (3), as applicants indicate that Ms. Phipps knows the current address of the nonsigning inventor and will not disclose it, it is possible that the address provided is not the last known address.


CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is DISMISSED, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.


Richard Cole
PCT Legal Examiner
PCT Legal Administration


Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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Date: June 11, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Joulshomma et al.

Applicant(s): Joulshomma et al.

Serial No: 09/980,080

Filing Date: 02 June 2002

Examiner:

Art Unit:

Title: 3-Dimensional Models of Mammalian Tissues

Docket No: PG1-1

June 18, 2003

To: The Commissioner of Patents
and Trademarks
P.O. Box 1450
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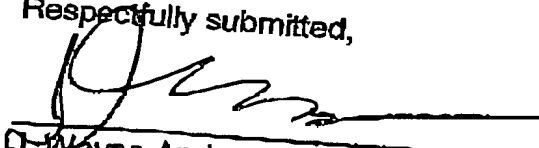
Sir:

PETITION FOR EXTENSION OF TIME
UNDER 37 CFR 1.136

It is hereby requested that a three-month extension of time be granted for filing a Response to the Official Letter of 6 February 2003.

A Credit Card Payment form no. PTO-2038 is enclosed in the amount of the requisite fee of \$930.00, is attached.

Respectfully submitted,


J. Wayne Anderson
Patent Agent for Applicant
Regn No: 28,158

P.O. Box 1266, Station B
Ottawa, Ontario
Canada, K1P 5R3

COPY

USPTO MAILROOM STAMP AFFIXED HERETO.
ACKNOWLEDGES RECEIPT OF:

X Petition For Extension Of Time
X Form PTO-2038 for Credit Card Payment of \$930.00
X Renewed Petition Under 37 CFR 1.47(a) (2 pages)
X Combined Declaration & Power of Attorney (3 pages)
X Copy of Decision On Petition Under 37 CFR 1.47(a)

Applicant: Joulshomme et al
Serial No: 09/980,080
Filing Date: June 2, 2002
Title: 3-DIMENSIONAL MODELS OF MAMMALIAN TISSUES
Docket No: PG-1

Patent Agent: J. Wayne Anderson
Address: P.O. Box 1266, Station B
Ottawa, Ontario K1P 5R3

Date: 6-20-03



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